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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,502	10/01/2003	Satoshi Ishikawa	461-149	4237
23117	7590	04/27/2006	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			RAO, G NAGESH	
			ART UNIT	PAPER NUMBER

1722

DATE MAILED: 04/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No:

10/674,502

Applicant(s)

ISHIKAWA ET AL.

Examiner

G. Nagesh Rao

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12, and 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sugiyama (JP 357,033,577).

Sugiyama 577 teaches an apparatus comprised of a conveying apparatus for guiding a rod-like molding where there is a primary packaging film (3a) is fed from film rolls 3' and 3'' onto an endless transfer conveyor having many molding frames 2 and folded by a folding means 4 between the molds (2) downward. A molded kneaded raw material (E) is then applied to the film (3a) by a molding machine (5), and the kneaded raw material (E) is cut by a cutter (6). The film (3a) is then cut by a cutter (22). The cut film (3a) has end widths (t) and (t) relative to the cut kneaded raw material (e) and the periphery and the ends of the cut kneaded raw material (E). Furthermore the film would anticipate the use of a low resilience foamed material in order to aid in the conforming of the material shape (E) as applied onto the film before being cut by the cutter (22). Furthermore as can be seen in Figure 1 the conveying apparatus comprises a rotary roller and a belt

adapted be advanced by the rotary roller, and the pads (anticipated by film) are bonded to a conveyor surface for the belt for conveying the rod-like molded material (See Abstract and Figures 1 and 2), finally the material is guided out by a extrusion mold guiding device as seen in Figure 1 Element 21 onto the endless transfer conveyor means.

Examiner would like to further point out that 1) the material worked upon by the apparatus is a recitation of intended use and does not further limit the capability of the claimed device and 2) although in the figures show the ratio of the brick material to be of the same length as the pad, that is an operating function. In other words there is a conveyor of pads and the cutter is set at a frequency to cut the brick rod-like material every pad length, but it can be configured to cut at a pad length that is approximately twice that of the brick length. It is a frequency of the cut that is determining the length of the material cut as pertained to applicant's desired operations to occur at approximately every two pads length, since the pad is almost one half the length axially that of the length of the brick cut. The apparatus of the prior art is capable of cutting in the desired axially length fashion as claimed by applicant.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2) Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable by Sugiyama (JP 357,033,577) in view of Simon (US Patent No. 5,417,562).

From the aforementioned rejection Sugiyama 577 teach a hypothetical device that reads on applicant's claimed invention.

However Sugiyama 577 fails to address a drying device situated after the apparatus with a conveyor means has extruded the material and cut it into form.

Simon 562 pertains to a conventional brick extrusion apparatus, where it is taught to have a drying device situated along the apparatus's manufacturing line to

heat treat the material once extruded and cut from the device (Col 3 Lines 46-68 and Col 4 Lines 1-23).

It would be obvious to one skilled in the art, to outfit the device taught by Sugiyama 577 with that of Simon 562 to heat treat and cure the malleable material once processed and extruded for use.

3) Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable by Sugiyama (JP 357,033,577) in view of Miyakawa (WO 01/07224).

Please note examiner is using Miyakawa (US Patent No. 6,711,979) as an English equivalent to Miyakawa (WO 01/07224).

From the aforementioned rejection Sugiyama 577 reads on applicant's claimed invention.

However the teachings fail to show the use of cutting wire and honeycomb die for the molded material.

Miyakawa 979 pertains to cutting method of a honeycombed ceramic body, whereby the body of material (5) is extruded from a honeycomb die and carried on carriage system (6) and cut by a cutting wire (2, 8).

It would be obvious to one skilled in the art to incorporate the specified teachings of a honeycomb die as a desired resultant effective variable on the molded material extruded from the conveyance means as taught by Sugiyama 577.

As for the specified use of a cutting wire, it would be obvious to modify the prior art with what is taught by Miyakawa 979, since it is known that soft malleable material extruded from an extruder and die assembly is still going to be soft and thus the use of a cutting wire would allow for the material to be cut gently without causing any deformation in the body of material.

Allowable Subject Matter

4) The following is a statement of reasons for the indication of allowable subject matter: Claim 13 recites a limitation that the resilience material be easily deformable in conformity with the contour of the rod-like ceramic molding when in contact therewith is not explicitly or inherently taught by the prior art. Examiner suggests that if the language of claim 13 was incorporated into claim 10 then that would probably overcome the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Nagesh Rao whose telephone number is (571) 272-2946. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571)272-1316. The


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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GNR


ROBERT DAVIS
PRIMARY EXAMINER
GROUP 1300-1200
4/25/06